a) DOV/22/00668 - The erection of a solar farm with battery storage and associated infrastructure for a period of 40 years - Land North of Guston and The Lane, Guston Court Farm, Guston

Reason for report – Number of contrary views (6 Public Representations & Langdon Parish Council)

b) Summary of Recommendation

Planning permission be granted.

c) Planning Policy and Guidance

Core Strategy Policies (2010): CP1, DM1, DM11, DM15, DM16

Land Allocations Local Plan (2015)

Local Plan (2002) Saved policies

Draft Dover District Local Plan (Regulation 19): SP1, SP2, SP3, SP4, SP5, SP6, SP11, SP12, SP13, SP14, SP15, CC3, CC5, CC6, CC8, PM1, E1, TI1, TI2, TI13, NE1, NE2, NE3, HE1, HE3

Kent Downs Area of Outstanding Natural Beauty Management Plan 2021- 2026

National Planning Policy Framework (NPPF) (2021): Paragraphs 2, 7, 8, 11, 38, 47, 48, 60-62, 86, 79, 108, 109, 110-112, 120, 123, 130-135, 152, 158, 167, 168, 174, 176, 180, 194-208

National Design Guide & National Model Design Code (2021)

Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

Kent Downs AONB Management Plan (2021-2026)

Countryside and Rights of Way Act 2000

The Conservation of Habitats and Species Regulations 2017 (as amended)

The Wildlife and Countryside Act 1981 (as amended)

The Protection of Badgers Act 1992 (as amended)

The Dover District Heritage Strategy

National Policy Statements: NPS1 (Energy), EN1 2021, EN3 2021

d) Relevant Planning History

Various applications including:

DOV/14/00153 – Construction of a 19.19 hectare solar park on site of Guston 1 only, to include the installation of solar panels to generate electricity, transformer housings, security fencing and cameras, landscaping, temporary access tracks and other associated works (Revision in respect of deletion of site of Guston 2) – Refused

DOV/15/00708 – Screening Opinion for solar farm – EIA not required

DOV/20/00540 – Request for EIA Screening Opinion for proposed solar farm – EIA Not Required

e) Consultee and Third-Party Representations

Representations can be found in full in the online planning file. A summary has been provided below:

Guston Parish Council - Firmly supports this application. This will provide a much needed supply of sustainable energy.

Langdon Parish Council – Strongly objects to permission being granted for this application. Description for the location of the application site is misleading, it suggests Guston parish is the focus of the proposal. In fact approximately 80% of the proposed site actually lies within Langdon Parish but is not obvious from the application notice. Consistently opposed the use of good quality agricultural land for renewable energy projects, particularly when it will have a detrimental impact on the open rural landscape of the chalk downlands. Concerns regarding UK' food and energy supplies and reliance on stable international trading relationships. Any loss of "Best and Most Versatile" productive land should be resisted to safeguard the maximum potential for home-grown staple food products.
Understands the need to move to a lower carbon, renewable energy future but not at the expense of productive farmland. Other opportunities locally to encourage the use of commercial and public premises for solar panel initiatives, (e.g. Dover Port Regeneration Zone)
This proposal is a purely commercial venture with no benefit to the local communities.
Protection of the Countryside DM15 - objects to the loss of Best and Most Versatile (BMV) agricultural grade 2 and 3 land across the 29Ha site for the planned period of 40 years. The range of productive land represents a significant and unjustified loss to the local farming economy. Large area of high quality land will be taken out of production for a period of 40 years, hardly temporary, and the solar park would comprise a long-term feature in the rural environment for a generation. Concerns that a dependence on the energy generated by the solar farm over the 40-year period would make it very unlikely to be returned to agricultural use.
No evidence to sustain the rural economy or community by installing the solar farm on productive land, contrary to Core Strategy policy DM15.
Landscape Impact DM16 - The proposed site lies along the flat-topped downland ridge from The Lane (Guston) to the boundary of Solton Manor Farm (Langdon), in the same line as the A258 Dover – Deal road. The south-eastern boundary of the solar farm will lie along the shallow valley bottom, at a lower level than the A258 road route. LPC largely agree with the three categories of screening into the proposed site area. However, the effectiveness of the proposed screening is questionable, especially along sections of the higher A258 boundary and intersections of Solton Lane and Hangman's Lane which overlook most of the sloping southeastern aspect.
A useful reference point is at the Guston 1 solar farm which lies back from the A258 - A2 junction by the Duke of York roundabout. This solar farm was constructed in 2015 with associated boundary screening. Six years on, the solar panel arrays are clearly visible from the A258 as an incongruous impact in the landscape even during the summer seasons when the hedges and trees are in full leaf. There is no assurance that the proposed solar farm will be sufficiently screened to have minimal visual impact on this open rolling landscape.
LPC objects in principle to industrial-scale installations in this rural area, passive or otherwise and the creation of Guston 1 solar farm has broached the once-distinct boundary between industrial areas of Dover and the rural landscape that is bounded by the A258 – A2 corridor, contrary to DM16.

Conclusion - Langdon Parish Council respectfully urges the DDC planning committee to refuse permission for this large scale solar farm application. It represents a serious incursion of an inappropriate development into a rural landscape significant for its rich history and heritage value.

Upon receipt of further information, advised they stood by their previous comments which concluded the application should be refused. The applicant's Landscape Strategy – Plan 5 (480/05 Rev B) illustrates how the boundary regions of the site might be improved by in-filling and ground planting schemes. Cross Section drawing 2020-0002 (Rev A) shows sectional modelling aspects of the solar panels and ground levels relative to the boundary hedge screening. Neither of these submissions considers the wider view impact of the solar farm site on the open rolling landscape of the Dover-Deal A258 corridor between Guston and Langdon. The topology of the surrounding rural landscape is such that most views towards the proposed site from the A258 and boundary lanes are from higher vantage points. Since 80% of the site land lies on the southeastern valley slope within Langdon parish, it will be extremely difficult to screen effectively the solar panel arrays and service buildings. This would conflict with DM16 "the character of the landscape should be protected, location carefully selected" "unacceptable if its location would have a harmful effect on the landscape." The parish council reiterates the serious concern of the permanent loss of Best and Most Versatile (BMV) agricultural grade 2 and 3 land across the 29Ha site for the planned period of 40 years. The continued uncertainty of international food supplies should be a timely warning to the risk of losing highly productive greenfield agricultural land for solar farm schemes, contrary to "Protection of the Countryside DM15". It is hard to imagine the land being returned to agricultural use after a sustained 40 year period.

The Construction Management Plan Report Addendum proposes that Hangman's Lane would be closed to local traffic for six-months during the construction period. The proposed traffic diversion will be a major inconvenience to residents and add to their journey times. The rural lanes between Guston and East Langdon are narrow yet well-used by local traffic and vehicles cutting between the A258 and A2 during peak commuter times. The proposed access route onto the A258 via Solton Lane has limited passing places and vehicles attempting to turn onto the main road will experience limited visibility and fast-moving traffic.

St Margaret's Parish Council – No objections

National Highways – Offer no objection. We have assessed the proposals based on the submitted documentation and our experience of similar applications elsewhere, including the site close by and immediately adjacent to the A2 at Guston. We have concluded that neither the construction or operation of the site is likely to generate traffic or give rise to other effects (eg glint/glare etc) that would unacceptably impact on the safety, reliability and/or operational efficiency of the SRN (the tests set out in DfT C2/13 and MHCLG NPPF2021). On receipt of further information, advised it did not alter their assessment of the impact on the strategic road network and they were content to continue to rely on their previous response of no objection.

KCC Highways and Transportation - confirm that provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority:-
- Submission of a Construction Management Plan before the commencement of any development on site to include the following (routing of construction and delivery vehicles to / from site; parking and turning areas for construction and delivery vehicles

and site personnel; timing of deliveries; provision of wheel washing facilities; temporary traffic management/signage; condition surveys).
- Provision and maintenance of the visibility splays shown on the submitted plans with no obstructions over 1.05metres above carriageway level within the splays, prior to the use of the site commencing.
- Use of a bound surface for the first 5 metres of the access from the edge of the highway.
- Evidence of a signed Section 278 Agreement detailing the approved design of the proposed construction access to be submitted to the LPA prior to the commencement of works on site. An informative is also suggested.

KCC Public Rights of Way and Access Service – Have no comments to make.

KCC Flood and Water Management (LLFA) – understand from the report that the existing surface water regime is not to change on site following the installation of solar panels as a majority of the site will remain vegetated with permeable surfaces. A cultivation and reseeding programme will also be submitted for approval prior to the proposed development being constructed. The report also indicates that during rainfall events, runoff from the solar panels will fall and be absorbed by the grassed and agricultural surface, where it will be absorbed by the existing drainage network.
It is not clear from the report what the existing drainage network consists of.
Further to this there seems to be some discrepancies between the descriptions of the proposed surface water drainage strategies. Further clarification on what the existing surface water drainage network is and what exactly is planned on being carried out for this site will need to be provided. Whilst such measures detailed above will reduce impacts, It is essential that the vegetated buffer strips and planting around the panels are maintained throughout the lifetime of its operation. Future removal/ lack of maintenance may result in increased runoff/ erosion. As a result, a suitable maintenance regime is required to ensure erosion and runoff are controlled. It is recommended that the LPA considers agreements with the land owner to ensure the vegetation remains in place for the duration of the sites use.
We also note that the site is located partially within Source Protection Zone 2 and partially within source protection zone 3. Consultation with the Environment Agency is recommended.

Following receipt of additional information in respect of drainage, advised: It is understood from the report that the surface water from the site will be managed via conveyance through grass/wildflower vegetation between the solar panels, the use of a shallow swale, filter drains, and a shallow infiltration basin. We have no objections to the proposals at this stage however further clarification will be required with regards to the vegetive strips between the solar panels as part of the detailed design submission to ensure that sufficient protection is provided to prevent soil erosion. Recommend conditions are imposed requiring the submission of a detailed sustainable surface water drainage scheme, a verification report and that the infiltration of surface water will only be in the parts of the site where information is submitted to demonstrate there is no resultant risk to controlled waters and/or ground stability.

KCC Archaeology –
The application is located in an area that is archaeologically sensitive. This is because there is good evidence in the form of crop- and soil-marks to demonstrate the presence of buried archaeological and landscape features in the fields surrounding the development – and extending into the development area.
Among the known crop- and soil-marks are numerous probable and possible ring-ditches, including around 10 within 250m of the application site (of which two fall within the red-line area). These ring-ditches most likely represent the plough-flattened

remains of Late Neolithic/Early Bronze Age burial mounds about which other Prehistoric satellite burials might be expected. Such monuments frequently also acted as a focus for burial in later periods, especially of inhumations of Anglo-Saxon date. Other crop- and soil-marks include evidence for enclosure systems and track-ways which may relate to later Prehistoric and Romano-British activity and settlement. Several such enclosures are visible adjacent to the site's north-western boundary and are projected to extend into the site. A ditched trackway can also clearly be seen heading in a north – south direction through the northern part of the site. The application is accompanied by a Heritage Desk-based Assessment by Cotswold Archaeology and also a report by Magnitude Surveys setting out the results of a geophysical (magnetic) survey. The applicant's heritage assessment notes the presence of a "series of cropmarks… which represent features that likely continue into the site" (Cotswold Archaeology para 6.2) and goes on to note that "archaeological investigation, likely prior to the determination of any planning permission, may be required to clarify potential impacts". The assessment notes that an initial stage of geophysical survey, but states that this was compromised as a result of green waste manuring. The geophysical report acknowledges that due to the presence of green-waste and the uncertainties that this brings that reduced confidence must be given to the geophysical survey results

The assessment sets out in Table 4.1 the range of archaeological periods that may be represented at the site and summarises the anticipated character and significance of such remains. It notes that the site has a moderate to high potential for several periods, including a moderate potential for Bronze Age remains of High significance.

The site is acknowledged in the applicant's assessment to have a moderate to high potential for archaeological remains and that for the Bronze Age this could include remains of High significance. The applicant's assessment highlights how groundworks can result in damage to or the loss of buried archaeological remains (Cotswold Archaeology paras 4.7 and 4.8). Whilst the use of minimally intrusive piles for the installation of the panel frames will reduce the impacts these can remain significant, particularly where such piles coincide with funerary remains (cremations or inhumations).

NPPF 194 sets out that where a proposed development site includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. The applicant has submitted a desk-based assessment, and this provides a good account of the site's archaeological interest. A geophysical survey has also been included, but as a result of modern green-waste the survey does not provide sufficient clarity to accurately determine the nature, extent and significance of the potential archaeological resource.

I therefore recommend – in accordance with NPPF 194 and as per the recommendations of the applicant's assessment – that further survey (likely in the form of an intrusive field evaluation) be carried out prior to the determination of the present planning application. Following the additional survey work it may be necessary to vary the design of the proposed solar farm to remove impacts from important archaeology and/or to agree considerate design measures to reduce construction impacts (i.e. to avoid or minimise harm).

<u>Historic England -</u>

The site is located north east of the village of Guston and consists of a single large arable field of around 29ha. The site does not contain any heritage assets but does lie in close proximity to several Grade II listed buildings, including Swingate Mill, Swingate Inn and Solton Manor Farmhouse.

These assets derive significance from their setting within a simple, unified landscape of arable farmland and enjoy long views with relatively few detracting features.

Impact - The proposals are for the construction of a solar panel farm covering the entirety of the site. The creation of the proposed solar array has the potential to cause harm to nationally designated heritage assets within this historically sensitive landscape. This harm would most likely take the form of damage to the setting of assets, views to and from assets, and the overall historic landscape character of the area, by the introduction of incongruous modern equipment and fencing into an open rural landscape.
We agree with the submitted Heritage Assessment that the asset likely to be most affected by the scheme is Swingate Mill, which stands on the strip of land between the existing Guston solar farm and the proposed arrays. It derives significance from the agricultural setting in which the arrays are now proposed. This setting illustrates the mill's former role at the heart of a working landscape and the transformation of this land to a solar array is likely to cause some harm to that significance.
Policy – NPPF presumption in favour of 'sustainable development', a key component of which includes protecting and enhancing the historic environment. In general terms, the document places great weight on: the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; their potential to contribute to sustainable communities; and the desirability of new development making a positive contribution to the historic environment's local distinctiveness.
Paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
Paragraph 202 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
We would urge you to address the above issues and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

DDC Heritage Team - I am content that the Heritage Assessment identifies the relevant assets potentially affected by the proposed development and note that although it states it is a desk-based assessment, in respect of the built heritage site visits were undertaken to facilitate analysis of impact particularly on setting. I have considered only those heritage assets noted in the Heritage Assessment as affected by the proposed development with the addition of three others which in my view deserved greater level of consideration (although I agree with the conclusion in respect of level of harm).
Swingate Mill: a grade II listed structure whose character and setting has changed somewhat due to residential conversion and adjacent development. The immediate setting of the windmill is now highly domestic and in my view this has had the impact of disassociating it from the surrounding rural landscape. The Heritage Assessment considers that the mill is best experienced within its immediate setting, however in my opinion views of the mill across the landscape, in particular from the A258 and East Langdon Road, are of most importance as the prominence of the windmill (even without it's sails it remains strongly identifiable as a windmill) helps to reinforce its heritage value by demonstrating its strong historic and functional relationship to the land.
The proposed development area has been pulled back from the boundary with the mill. In addition, there will be an increase in the existing vegetation on the boundary. The visual impact on the setting of the windmill will be greatest in the short term but is still considered to be low level, partly due to the manner in which the land undulates and the orientation of the panels which reduces the visual impact of glare where views of the windmill are afforded in particular from the A258.

The LVIA notes that the change to the landscape will be visible from the 1st and 2nd floors of the windmill; the listing description notes that some of the machinery may still exist however it is likely that the contribution the interior makes to the significance of the windmill is much reduced due to its conversion to residential. Views out may therefore help to sustain the significance of the heritage asset, although these been somewhat compromised by the surrounding residential development. The position/extent of the development leaves a fair swathe of land undeveloped and in my view the potential harm in this respect is negligible.The overall level of harm to Swingate Mill is considered to be at the low end of less than substantial.
Solton Manor: the Heritage Assessment has identified that the development will not be 'discerned' from Solton Manor and I confirm that this is the case. As a result, in my view there will be no harm caused to its significance.
Swingate Masts and the clock tower at Duke of York School: the masts are grade II and II* listed; the clock tower is grade II listed. The Heritage Assessment indicates that these listed buildings are unaffected by the proposed development and in particular that the experience of the masts is not affected. In my view this is incorrect. In my view the site does help to contribute to the setting of the individual listed buildings by virtue of its open undeveloped state. The prominence of the listed buildings is a key aspect of their significance and they are the only features projecting above land level that can be seen from the site and from surrounding footpaths and roads. Naturally this means that they draw the eye as a point of interest. As the development will be to the foreground it is likely in my view that it will interrupt the view of the masts and tower and will therefore have an impact on the experience of the listed buildings, albeit minor.
In my view, due to the undulation of the land, proposed increase of vegetation and the orientation of the panels, any harm to the significance of the listed buildings will be the very low end of less than substantial in the short term and none to negligible in the mid-longer term.
Recommendation: I am content that the submission adequately considered the impact of the development on the historic built environment. The overall level of harm is likely to be at the low end of less than substantial, and with time may be further reduced once the proposed vegetation grows.

DDC Tree and Horticulture Officer - I can confirm that I have no objections to the proposal subject to the proposed provision of 'new native hedging, small areas of woodland and 'gapping up' of existing boundary hedging', as set out in the Landscape and Visual Impact Assessment dated May 2022 and the accompanying details contained in Annexe D Table 1, to safeguard the amenities of the surrounding area and adjacent properties.

DDC Senior Natural Environment Officer - A significant potential biodiversity net gain (BNG) is reported in the Ecological Impact Assessment, but no details of the BNG assessment (including detailed baseline habitat maps) or calculations have been provided. Requests that these and outline ecology plan are submitted and that additional information is sought to demonstrate that the potential for ecological impacts as a result of the proposed construction and operational accesses has been considered to ensure all potential impacts can be adequately addressed in the decision.
Some potential for ecological impacts is identified in the report, and the implementation of precautionary measures to minimise the potential for impacts to reptiles and farmland birds is recommended in the report, the details of which can be secured by condition, if planning permission is granted. I also expect this to include measures for the protection of toads, hedgehogs and protected species. Further measures may be necessary as a result of the additional information and they should demonstrably apply this recent best practice guidance in the implementation of the scheme (if planning permission is granted) NCBPG-Solar-Energy-UK-Report-web.pdf (solarenergyuk.org).

Upon receiving further information, advised they were satisfied the further information addressed their previous queries regarding potential ecological impacts of the proposed development and recommended conditions were imposed requiring the submission of a biodiversity method statement (protection of biodiversity during construction), ecological design and management plan, bat sensitive lighting strategy and biodiversity method statement (in respect of the decommissioning).

DDC Environmental Health – have no comments to make.

Environment Agency - Due to the scale, nature and setting of this proposal and the supporting information submitted, we do not object to the proposal in principle providing the following informative is placed on any permitted development. Informatives are suggested in respect of the siting over a principle aquifer and that non-planning consents may be required. Had no further comments when reconsulted.

Natural England – No objection. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites. Natural England's generic advice on other natural environment issues is set out at Annex A (available to view in the online planning file). Recommended national and local policies and local landscape expertise used to determine proposal in respect of Kent Downs AONB (NPPF Paragraphs 176 and 177, duty of Section 85 of Countryside and Rights of Way Act 2000 and PPG. In respect of Dover-Folkestone and South Foreland Heritage Coasts – NPPF Paragraph 178 relevant, together with footnote 60 (in relation to major development). Consideration should be given to impacts on adjacent/nearby North Downs Way National Trail and mitigation measures should be incorporated for any adverse impacts. SSSI Impact Risk Zones - The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England.

Kent Wildlife Trust – No response received.

RSBP – No response received.

Kent Downs AONB Unit – site lies in the setting of Kent Downs AONB by virtue of its proximity (approx. 0.4km to the south) and that the site is visible in views from the Kent Downs and shares similar landscape character as nearby AONB. Application should be tested against purpose of AONB designation to conserve and enhance natural beauty of AONB (NPPF Para. 176). Countryside and Rights of Way Act 2000 (Section 85) 'Duty of Regard'. Refers to Kent Downs Management Plan (2021-2026) recently adopted; specifically policies MMP2 and SD8. Recent appeal decision confirms that where proposal is outside of AONB, effect on views outside of AONB but gained from within AONB would result in NPPF Para 176 being relevant. NPPF also includes reference to development within the setting of AONB being sensitively located and designed to avoid or minimise adverse impacts on the designated areas. Further advice contained within NPPG and reference made to appeal decisions.
Whilst site is located in close proximity to AONB, agree with conclusions of LVIA that there is relatively limited intervisibility between the site and LVIA , limited to two key viewpoints; one on Deal Road and one on Bridleway ER23 to the northeast.
While we agree with the assessment of the LVIA that key coastal and historical attributes of this part of the AONB are not evident in the site, we nevertheless consider that the site shares similar landscape characteristics to the nearby AONB to the south of Deal Road, including characteristics noted in this local area in the LCA Update to the AONB such as the gently undulating coastal plateau punctuated by dry valleys,

relatively few trees, large, open arable fields and scattered farms. This does, in our view, result in a landscape relationship between the site and the AONB. However, in this location, most roads and public rights of way follow the north-east/south-west topography of the landform which limits the opportunities for the site and the AONB to be experienced together.

We also strongly disagree with the statement at paragraph 8.3.9 of the Planning Statement that 'the key visual effects of the development are limited to a section of bridleway ER23 near Pond Lane some 900m away within the AONB that would reduce over time as the landscaping proposed matures…..'. This does not accurately reflect the findings of the LVIA. The higher topography of the viewpoint and the rising nature of the application site means that the proposed hedgerow planting would be largely ineffectual in screening or filtering views of the site from the Bridleway ER23 (Viewpoint 17), as is demonstrated in the photomontages within the LVIA (Appendix 13). As such, this is predicted in the LVIA to have a Significant Adverse effect at both construction and after 10 years. The AONB Unit agrees with this assessment. Notwithstanding these points, noting the relatively limited intervisibility between the site and the AONB, the distance of the main affected viewpoint (17) and the proposed mitigation, which would result in net gains to the biodiversity value of the site, the AONB Unit does not raise an objection in principle to the application. Should the Council be minded to approve the proposal, it is considered that additional landscaping along the site's south-eastern boundary in the form of a tree belt, rather than the proposed hedgerow could help filter views from the AONB and reduce the predicted impacts. As such, we would like to see opportunities for this explored and would expect conditions attached to any permission granted to ensure the agricultural management of the land for the term of the temporary permission and to ensure that the site is restored to agriculture at the end of the temporary consent, with all elements of the panels and associated infrastructure to be removed from the site.

Upon reconsultation following additional planting being proposed within the landscaping scheme, advised that The AONB Unit welcomes and supports the proposed amendments made in response to our initial consultation response letter dated 27 June 2022, with the incorporation of trees within the south-eastern hedged boundary which would help reduce the longer term visual impacts of the scheme when viewed from the AONB.

National Grid – No response received.

Kent Fire and Rescue Service - Following my assessment of Fire and Rescue Service emergency access provisions for application number 22/00668 - The erection of a solar farm with battery storage and associated infrastructure for a period of 40 years. Kent Fire and Rescue Service would expect to be consulted on any proposed renewable energy facility either through formal building consultation or from stakeholders and developers sharing information at an early stage. The Fire and Rescue Act 2004 notes the importance of facilitating information of known risks in a timely manner which allows the service to plan and exercise its functions across Kent.

If the proposed renewable energy facility is being designed with permanent buildings the consultation would be reviewed in the normal manner against Approved Document B : Volume 2: Buildings other than dwellings 2019 edition which includes vehicle access and facilities for firefighters. If this is the case, KFRS would expect to receive plans and documentation including fire risk assessments via FET@kent.fire-uk.org in the normal manner from a Building Control body or via an Approved Inspector. Have provided additional comments in respect of water services and the Risk Information Team which would be included as an informative.

Third party Representations:

6 Members of the public have submitted representations of objection and are summarised below:

- Substantial area of land will be removed from agricultural production for 40 years
- Loss of BMVAL - More than 93% of site is classified as best and most valuable agricultural land – far more important to use land for agricultural purposes and site solar arrays on land in places where land classification is lower and less valuable for food production. Contrary to policies of NPPF. Prime land on which to grow crops of wheat and oilseed rape – both crops significantly under supplied for UK, European and world demand – concerns regarding food security and that the UK should become self-sufficient in food production. Concerns regarding permanent loss of farmland (from solar and housing development).
- Recognise global need to reduce carbon emissions and move towards renewable energy projections but this should be without compromising national capacity for food production
- Impact on character and appearance of landscape, Kent Downs AONB and far reaching views – concerns boundary and tree planting schemes to reduce visibility of structures may have limited benefit and cannot mitigate in line with DM16. Policy DM15 not considered by applicant.
- Residential amenity impact - concerns it will have inadequate fencing and screening where it adjoins land
- Impact on heritage assets
- No evidence/guarantee of temporary nature of development – concerns that once agricultural land loses its special status it changes to prime use of commercial or industrial development/re-development and loses protected position.
- No evidence of other suitable sites
- Brings no benefit to people of East Langdon and the area it most effects. Case is based significantly on convenience, financial return and willing landowner
- No evidence of statement of community involvement for parish of Langdon whose boundary encloses most of the proposed site
- British Energy Strategy in its paper "Solar and other technologies" states: a) For ground-mounted sites we will consult on amending planning rules to strengthen policy in favour of development on non-protected land (i.e., NOT BMVAL) b) We will continue supporting the effective use of land by encouraging large scale projects on previously developed or lower value land. c) The cost of solar has fallen by around 85% in the past decade ..... Can be installed on a domestic roof in just one day.
- UK Government (June 2022) signalled it will relax push to use green fuel amid concerns initiative could contribute to cost-of-living crisis. Need to mitigate global food crisis and land must be used for producing more food to help combat soaring prices
- Detrimental impact on wildlife and birds
- Reference to similar refusals and appeal decisions (including DOV/13/01106)
- Pre-application correspondence – concerns raised that nothwithstanding conclusion that a formal EIA was not considered necessary, the scheme was likely to raise concern in respect of visual impact in wider landscape, impact upon settings of listed buildings and potential implications for future availability of best and most versatile agricultural land and without prejudice to formal determination of any application, Officers would not wish to encourage submission of a planning application.
- Planning history – current application to build solar array on 27.5 Ha of agricultural land enjoying same landscape and appearance values as the land previously dismissed on appeals in 2009 and 2016 must lead to it being refused

- Note proposal could generate 24MW of electrical supply to 7000 homes, approximately the projected number of new housing in Whitfield Urban Expansion yet no solar installations are scheduled within building project (missed opportunity)
- Viable alternative for new builds to be required to be constructed with own solar panels
- Concerns regarding road works during construction, alternative routes proposed and that additional vehicular use of these roads would create congestion on single lane roads and increases risks to existing road users (including horse riders, cyclists, dog walkers and farm machinery)

1 representation has been received neither objecting to nor supporting and are summarised below:

- Neutral as cannot locate a map of the area involved and would like to see and hear more information on proposal

7 representations in support of the proposals have been received (including from Port of Dover) and are summarised below:

- Support need for more green energy
- Provide additional energy generation for UK grid
- Rising cost of electric and negative affect of fossil fuels on environment
- Hope firm considers allowing local residents to obtain reduced energy costs
- Well planned/thought through and causes no disruption to village
- Structure will be unobtrusive
- This is exactly the kind of investment we need for energy production both now and in the future
- Land being used is not high quality arable land and would be well used for new purpose of providing a sustainable energy source
- Significant energy required to power new hybrid super ferries and challenge for port to achieve net zero carbon emissions by 2025
- Believe plans to protect land backing onto house is sufficient and reassured that solar farm will be hidden by hedgerows
- Look forward to hopefully seeing wildflower meadow

f) 1. <u>The Site and the Proposal</u>

1.1 The application site relates to a 29 hectare plot of land on the northeast side of The Lane, outside of the settlement confines. The land is bounded by arable land (Famine Down) to the northwest, Solton Manor Farm to the northeast, further arable land to the southeast (with the A258 to the SE of this) and a number of residential dwellings (Guston Mill, Mill House, Peveral Cottage, Millfields, Vale View and Cherry Tree Cottage) to the southwest. To the southwest of the site is the Grade II Listed Building Swingate Mill (Hangman Lane, List Entry Number: 1336972) and to the northeast is the Grade II Listed Solton Manor Farmhouse (List Entry Number: 1070058). In addition, there are a number of other Listed Buildings in the surrounding area, as well as Conservation Areas (discussed further in the Heritage section of this report). Land to the east of the site (on the opposite side of the A258) is designated as Kent Downs Area of Outstanding Natural Beauty (AONB).

1.2 This application seeks permission for a 24MW solar farm across a 29 ha site. It would provide rows of Photovoltaic (PV) panels measuring 25.6m wide and 6.4m in length each and laid in parallel across the site, mounted on a base with the

lowest point of the panel being approximately 0.7m above ground level and the highest point of the panel at 3.05m above ground level.

1.3 The proposed development also includes battery storage and associated infrastructure (perimeter fencing, gates, temporary construction pound and access, inverters/transformer stations, storage and control cabins, DNO substation, CCTV). New tree, hedgerow and chalk grassland meadow planting is also proposed as part of the works at the site. The electricity generated would be transmitted to the National Grid via a connection to Guston substation.

2. Main Issues

2.1 The main issues for consideration are:

- The principle of the development
- The impact on the character and appearance
- Impact on heritage assets
- The impact on residential amenity
- Other material considerations

Assessment

Principle of Development

2.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

2.3 Policy DM1 states that development will not be permitted outside of the settlement boundaries, unless it is justified by another development plan policy, functionally requires a rural location or is ancillary to existing development or uses. The site is located outside of the defined settlement confines, is not supported by other development plan policies and is not ancillary to existing development or uses. However, it is considered the proposed development cannot be accommodated within the tightly defined settlement boundaries and as such, functionally requires a rural location. As such, the application is considered to accord with the exceptions of Policy DM1.

2.4 DM11 seeks to resist development outside of the settlement confines if it would generate a need to travel, unless it is justified by other development plan policies. As set out above, the development is considered to functionally require the countryside location and being in accordance with the exceptions of DM1, also accords with the exceptions of DM11.

2.5 Policy DM15 requires that applications which result in the loss of countryside, or adversely affect the character or appearance of the countryside, will only be permitted if it meets one of the exceptions. The development would result in a limited adverse impact on the countryside (as detailed further in the report). The development would not meet the exceptions listed in Policy DM15. Whilst it is considered that the development would have only a limited impact on the character and appearance of the countryside (discussed in detail later in the report), this alone would be sufficient for a proposal to be considered contrary to DM15.

2.6 Policy DM16 states that development that would harm the character of the landscape, as identified through the process of landscape character assessment will only be permitted if it is in accordance with allocations made in Development Plan Documents and incorporates any necessary avoidance and mitigation measures; or it can be sited to avoid or reduce the harm and/or incorporate design measures to mitigate the impacts to an acceptable level. It is considered (further in this report) that the development would have only a limited impact on the character of the countryside and no significant adverse impact on the landscape. Consequently, the development would not conflict with DM16.

2.7 For the above reasons, the development is contrary to policy DM15 of the Core Strategy, but would accord with the exceptions of Policies DM1, DM11 and DM16. It is considered that these policies are also the most important policies for determining the application.

2.8 The NPPF advises, at paragraph 11, that proposals which accord with an up-to-date development plan should be approved without delay. An assessment of the most important policies for the determination of the application must be undertaken to establish whether the 'basket' of these policies is, as a matter of judgement, out-of-date. Additionally, criteria for assessing whether the development plan is out-of-date are explained at footnote 7 of the NPPF. This definition includes: where the council are unable to demonstrate a five-year housing land supply; or, where the council has delivered less than 75% of the housing requirement over the previous three years (as assessed by the Housing Delivery Test).

2.9 Having regard for the most recent Housing Delivery Test, the Council are currently able to demonstrate a five-year supply. The council have delivered 88% of the required housing as measured against the housing delivery target; above the 75% figure which would trigger the tilted balance to be applied. It is, however, necessary to consider whether the 'most important policies for determining the application' are out of date.

2.10 Policy DM1 and the settlement confines referred to within the policy were devised with the purpose of delivering 505 dwellings per annum in conjunction with other policies for the supply of housing in the Council's 2010 Adopted Core Strategy. In accordance with the Government's standardised methodology for calculating the need for housing, the council must now deliver a greater number of dwellings per annum. As a matter of judgement, it is considered that policy DM1 is in tension with the NPPF, is out-of-date and, as a result of this, should carry only limited weight.

2.11 Policy DM11 seeks to locate travel generating development within settlement confines and restrict development that would generate high levels of travel outside confines. The blanket approach to resist development which is outside of the settlement confines does not reflect the NPPF, albeit the NPPF aims to actively manage patterns of growth to support the promotion of sustainable transport. Whilst the blanket restriction of DM11 is in tension with the NPPF, given that the policy otherwise reflects the intension of the NPPF to promote a sustainable pattern of development, on balance, it is not considered that DM11 is out-of-date. However, the weight to be afforded to the policy, having regard to the degree of compliance with NPPF objectives in the circumstances presented by this application, is reduced.

2.12 Policy DM15 resists the loss of 'countryside' (i.e. the areas outside of the settlement confines) or development which would adversely affect the character or appearance of the countryside, unless one of four exceptions are met; it does not result in the loss of ecological habitats and provided that measures are incorporated to reduce, as far as practicable, any harmful effects on countryside character. Resisting the loss of countryside (another blanket approach) is more stringent than the NPPF, which focuses on giving weight to the intrinsic beauty of the countryside and managing the location of development (Paragraph 174). There is some tension between this policy and the NPPF. In this instance the sites appearance within open countryside does afford a contribution to the character of the countryside. Consequently, it is concluded that the policy is not out-of-date and should attract moderate weight for the reasons set out in the assessment section below.

2.13 Policy DM16 seeks to avoid development that would harm the character of the landscape, unless it is in accordance with allocations in the DPD and incorporates any necessary avoidance or mitigation measures; or it can be sited to avoid or reduce harm and/or incorporate design measures to mitigate the impacts to an acceptable level. As with Policy DM15, this policy is considered to be in some tension with the objectives of the NPPF (particularly Paragraph 174), by resisting development that would harm the character of the landscape, unless the impact can be otherwise mitigated or reduced. In this instance the sites appearance within wider landscape character does afford a contribution to the character of the countryside. Consequently, it is concluded that the policy is not out-of-date and should attract moderate weight for the reasons set out in the assessment section below.

2.14 It is considered that policies DM1, DM11, DM15 and DM16 are to a greater and lesser extent in tension with the NPPF, although for the reasons given above some weight can still be applied to specific issues they seek to address, having regard to the particular circumstances of the application and the degree of compliance with NPPF objectives, in this context. Policy DM1 is particularly critical in determining whether the principle of the development is acceptable and is considered to be out-of-date, and as such, the tilted balance approach of Paragraph 11 of the NPPF is engaged.

2.15 The Draft Local Plan was published on 21st October 2022 for Regulation 19 stage consultation and its policies are considered to be a material consideration in the determination of the application as the policies are based on up to date information, housing numbers and the most recent NPPF. Policy CC3 (Renewable and Low Carbon Energy Development) sets out that:

> "Development to generate energy from renewable and low carbon sources will be supported where it is demonstrated that:
>
> a) The environmental, social and economic benefits of their proposals are made clear;
> b) It will not result in significant harm to the surrounding area, landscape character, natural or heritage assets, habitats, biodiversity, or wildlife (particularly protected species), having special regard to the natural beauty of the Kent Downs AONB;
> c) There is no significant loss of amenity to local residents by virtue of visual impact, noise, disturbance or odour;
> d) The proposals will conserve and enhance the natural environment

through measures such as improvements to biodiversity;
e) There is no loss of the best and most versatile agricultural land, unless that it can be demonstrated that no alternative lower grade land is available;
f) It will not result in an unacceptable impact on the local transport network that cannot be satisfactorily mitigated;
g) Any fuel required is sustainably sourced.

All applications for renewable and low carbon energy developments should include a supporting statement setting out how the proposals meet the criteria of this policy".

In terms of the benefits of the proposal, as detailed further below, environmentally the development would produce 10% biodiversity net gain. The energy generated from the development would feed into the national grid and would provide enough renewable electricity to power approximately 7,000 homes (approximately 13% of all residential properties in the Dover District). Furthermore, the development would generate employment during its' construction (point a of the policy). The impact on character and appearance of the countryside, landscape area (including AONB), heritage assets, habitats, biodiversity (including mitigation and enhancement measures) and residential amenity is addressed further below and the proposals are considered to be acceptable in this regard (points b, c and d). The majority of the site (63%) is identified as Grade 2 land, with the remaining site being grade 3a land (30%) and grade 3b land (7%) and the proposed development would utilise this land for a 40 year period. This is further discussed in the report below and for the reasons outlined, the temporary use of the land is considered to accord with point e. Furthermore, the proposals would utilise solar energy and are considered to accord with point g. The application was submitted prior to the Regulation 19 draft plan being published and as such, no statement has been submitted setting out how the proposals would meet each criteria, however it is considered these points are addressed in the supporting information provided. As such, the proposals are considered to accord with Policy CC3 of the Regulation 19 Draft Local Plan.

Impact on the Character and Appearance

2.16 The site lies within the countryside and Policies DM15 and DM16 are relevant to the determination of the application. These policies seek to prevent development which would result in the loss of, or adversely affect the character and appearance of the countryside and wider landscape area. Furthermore, the NPPF identifies that "decisions should contribute to and enhance the natural and local environment by… recognising the intrinsic character and beauty of the countryside" (Paragraph 174). As discussed, the site is located outside, but to the west of, the Kent Downs AONB. NPPF Paragraph 176 states that "Great weight should be given to conserving and enhancing landscape and scenic beauty in… Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues". Moreover, Section 85 of the Countryside and Rights of Way Act 2000 places a duty on Local Planning Authorities to 'have regard' to the 'purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty. In addition, Regulation 19 draft Local Plan Policy NE2 is a relevant material consideration which seeks for proposals to demonstrate regard to Landscape Character Areas and to the purpose of conserving and enhancing the natural beauty of the Kent Downs AONB.

2.17 In respect of the impact on the wider landscape character, a landscape visual appraisal has been submitted and a set of viewpoints and photomontages have been provided. The LVIA considers the impact of the development on views on completion and 10 years after completion. On completion, the report finds there would be a significant adverse effect at two locations which are highly sensitive receptors within the Kent Downs AONB. Ten years after the completion of the development, one of the viewpoints would remain significant adverse, however the other would reduce to slightly significant. There would be no moderately significant adverse visual effects and all other effects would be slightly significant or not significant.

2.18 The application has been subject to consultation with the Kent Downs AONB Unit (given that the AONB is located to the southeast of the A258 or Deal Road), who raised concerns and suggested increased planting was installed along the southeast site boundary to lessen the visual impact of the development. An amended plan was received incorporating this additional planting and Kent Downs AONB Unit subsequently advised they welcomed and supported the amendments which would help reduce the longer term visual impacts of the scheme when viewed from the AONB.

2.19 It is suggested that a condition is imposed requiring details of the colour finish of the proposed fencing, site compound and associated infrastructure, in order that they do not detract from, and blend in as much as possible with the proposed planting. For the same reasons, it is also considered appropriate to suggest a condition is imposed for the solar PV panels to have a matt finish. Notwithstanding this, substantial planting is proposed as part of the scheme which, whilst taking time to establish, will lessen the visual impact of the development. It is considered appropriate to impose a condition securing the provision of the proposed planting and its maintenance, to ensure its effectiveness in screening and softening views of the development. Subject to these conditions, having regard for the setting of the nearby Kent Downs AONB and public views of the site from nearby Public Rights of Way and the wider landscape character area, it is considered the development would result in an acceptable impact on visual amenity, having had regard to the NPPF, Kent Downs AONB Management Plan, Policies DM15 and DM16 and draft policy NE2.

Impact on Heritage Assets

2.20 The site is located in proximity to a number of heritage assets, including (but not limited to) Swingate Mill, Swingate Inn, Solton Manor Farmhouse (Grade II Listed). A number of other heritage assets are located in the wider area and the proposals may be visible from these features, albeit the scheme would be unlikely to cause harm to their settings. Chapter 16 of the NPPF and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out requirements relating to the assessment of the impact on Listed Buildings and Conservation Areas. In respect of Listed Buildings, special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In respect of Conservation Areas, special attention must be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. Paragraph 199 of the NPPF sets out that great weight should be given to the conservation of heritage assets, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from

development within its setting), should require clear and convincing justification. Paragraph 202 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Paragraph 203 of the NPPF sets out that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. In addition, Regulation 19 draft Local Plan Policy HE1 seeks to conserve or enhance heritage assets and sets out criteria by which development that would cause total loss or substantial harm may be accepted. X

2.21 A consultation response has been received from Historic England which notes the proposed solar array has the potential to cause harm to the setting of heritage assets, views to and from the assets and the overall historic landscape character of the area by the introduction of incongruous modern equipment and fencing into an open rural landscape. They agree with the submitted Heritage Assessment that the asset most likely to be affected by the proposals is Swingate Mill which stands between the existing Guston solar farm and the proposed arrays and derives significance from the agricultural setting in which the arrays are proposed. They consider that "This setting illustrates the mill's former role at the heart of a working landscape and the transformation of this land to a solar array is likely to cause some harm to that significance".

2.22 The Heritage Team have also been consulted on the proposals and are content that the Heritage Assessment identifies the relevant assets potentially affected by the proposals. They advise:

> "I have considered only those heritage assets noted in the Heritage Assessment as affected by the proposed development with the addition of three others which in my view deserved greater level of consideration (although I agree with the conclusion in respect of level of harm).
>
> *Swingate Mill:* a grade II listed structure whose character and setting has changed somewhat due to residential conversion and adjacent development. The immediate setting of the windmill is now highly domestic and in my view this has had the impact of disassociating it from the surrounding rural landscape. The Heritage Assessment considers that the mill is best experienced within its immediate setting, however in my opinion views of the mill across the landscape, in particular from the A258 and East Langdon Road, are of most importance as the prominence of the windmill (even without it's sails it remains strongly identifiable as a windmill) helps to reinforce its heritage value by demonstrating its strong historic and functional relationship to the land.
>
> The proposed development area has been pulled back from the boundary with the mill. In addition, there will be an increase in the existing vegetation on the boundary. The visual impact on the setting of the windmill will be greatest in the short term but is still considered to be low level, partly due to the manner in which the land undulates and the orientation of the panels which reduces the visual impact of glare where views of the windmill are afforded in particular from the A258.

The LVIA notes that the change to the landscape will be visible from the 1st and 2nd floors of the windmill; the listing description notes that some of the machinery may still exist however it is likely that the contribution the interior makes to the significance of the windmill is much reduced due to its conversion to residential. Views out may therefore help to sustain the significance of the heritage asset, although these been somewhat compromised by the surrounding residential development. The position/extent of the development leaves a fair swathe of land undeveloped and in my view the potential harm in this respect is negligible.

The overall level of harm to Swingate Mill is considered to be at the low end of less than substantial.

Solton Manor: the Heritage Assessment has identified that the development will not be 'discerned' from Solton Manor and I confirm that this is the case. As a result, in my view there will be no harm caused to its significance.

Swingate Masts and the clock tower at Duke of York School: the masts are grade II and II* listed; the clock tower is grade II listed. The Heritage Assessment indicates that these listed buildings are unaffected by the proposed development and in particular that the experience of the masts is not affected. In my view this is incorrect. In my view the site does help to contribute to the setting of the individual listed buildings by virtue of its open undeveloped state. The prominence of the listed buildings is a key aspect of their significance and they are the only features projecting above land level that can be seen from the site and from surrounding footpaths and roads. Naturally this means that they draw the eye as a point of interest. As the development will be to the foreground it is likely in my view that it will interrupt the view of the masts and tower and will therefore have an impact on the experience of the listed buildings, albeit minor. In my view, due to the undulation of the land, proposed increase of vegetation and the orientation of the panels, any harm to the significance of the listed buildings will be the very low end of less than substantial in the short term and none to negligible in the mid-longer term".

2.23 The Principal Heritage Officer considers that "The overall level of harm is likely to be at the low end of less than substantial, and with time may be further reduced once the proposed vegetation grows". Since this consultation response was received, in line with the comments of the Kent Downs AONB Unit, additional planting was proposed along the southwest boundary of the site. Whilst this would take time to establish, it is considered that this could further reduce the impact of the proposals on the setting of heritage assets, particularly in respect of the wider views of the assets.

2.24 Having had regard to Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Regulation 19 draft Local Plan Policy HE1 and Chapter 16 of the NPPF (particularly paragraph 199), it is considered the proposals would result in low level less than substantial harm to the significance of heritage assets for the 40 year period in which the development would be located at the site. Having had regard to NPPF Paragraph 202, the proposals would bring the public benefit of generating 24MW of electricity from a renewable source which would feed into the National Grid. It is considered the public benefit from the proposals would outweigh the low level less than substantial harm to the significance of heritage assets identified.

Impact on Residential Amenity

2.25 Whilst enhanced and new native planting is proposed as part of the development, the solar panels and associated development (including 2m high perimeter fencing) would be visible from a number of neighbouring properties. The matt finished solar panels would be 3.05m in height from ground level (at their tallest point) and whilst visible, due to their height and the planting proposed, which would screen views as it became established, the development is considered unlikely to result in an unacceptably overbearing or enclosing impact on residential amenity. The proposed storage container (measuring approximately 2.4m in height), battery containers, inverter/transformer stations (measuring approximately 2.9m in height), customer substations, distributor network operator substation and monitoring and communications cabin would be positioned towards the northwest site boundary and are considered to be sufficiently distanced from nearby dwellings that they would be unlikely to result in an unduly overbearing impact on residential amenity. Due to the nature of the development, the proposals are considered unlikely to result in undue harm to privacy of nearby residents. Furthermore, due to the siting and scale of the proposals, as well as separation distance to nearby properties, the development is considered unlikely to result in significant overshadowing or loss of light to residential amenity. In respect of noise and disturbance, Environmental Health have been consulted on the proposals and have no comments to make. Consequently, the development is considered unlikely to result in undue harm to the residential amenity of nearby residents, having had regard to the objectives of NPPF Paragraph 130(f).

Other Material Considerations

Travel, Highways & Parking

2.26 Policy DM11 seeks to restrict travel demand outside of the rural settlement confines unless it accords with other policies in the plan. In this instance, the proposal is considered to functionally require a rural location, according with DM1 and with the exceptions of DM11. The proposed development would utilise a construction access adjacent to the junction of Hangmans Lane and A258 and a temporary access track would be constructed (which would be removed after construction and returned to agricultural use). A permanent access would be created to the northwest of Cherry Tree Cottage (onto Hangmans Lane) which would enable the ongoing maintenance and monitoring of the solar farm (where one or two staff would typically visit the site on a monthly basis using a van or 4x4 type vehicle).

2.27 During the course of the application and following discussions between the agent and the local highway authority, further information including swept path analysis and details of the maintenance access arrangement and temporary construction access arrangements was submitted. The construction management plan submitted sets out that the proposal includes a temporary road closure of part of Hangmans Lane which is preferred by KCC Highways as it would avoid potential congestion/delays along A258 (instead of temporary traffic signals at the junction of Hangmans Lane/A258 originally proposed). The Lane would be closed just after the temporary site access (c. 20m from A258) for a distance of c.165m north, retaining access for existing dwellings along Hangmans Lane. Temporary signage would be put in place to indicate the road closure with plastic barriers

(which would allow fire access in the event of an emergency). This would be in place for the duration of the construction period, circa six months and would be enabled via a separate Temporary Traffic Regulation Order. Diversion routes have been indicated in the submitted construction management plan and traffic could temporarily increase by c. 10 vehicles on each route during the typical weekday peak hours (and c.110 vehicles across a typical weekday) during the construction period.

2.28 Construction vehicles would be required to turn left-in and right-out on to the A258. The temporary construction access includes additional flaring of the carriageway on Hangmans Lane approach where it meets the A258. This additional carriageway would be constructed to adoptable standard and following the construction period, could either be retained in situ (providing a benefit and widening the existing junction arrangement slightly) or could be removed and reinstated to the current condition. In addition, the applicant has agreed to highway construction surveys at the junction of the A258 and Hangmans Lane (which would be secured through the construction management plan condition discussed below).

2.29 Both National Highways and KCC Highways and Transportation have been consulted on the proposals. Neither raise objection to the proposals and conditions have been suggested by KCC in relation to the following matters; submission of a construction management plan (prior to the commencement of the development, detailing routing of construction and delivery vehicles to/from the site, parking and turning areas for construction and delivery vehicles and site personnel, timing of deliveries, provision of wheel washing facilities, temporary traffic management/signage and condition surveys), provision and maintenance of visibility splays, use of a bound surface for the first 5m of the access from the highway edge, and evidence of a signed Section 278 agreement detailing the approved design of the proposed construction access (although it is considered appropriate instead to impose a condition requiring plans demonstrating the detailed design of the proposed construction access to be submitted). An informative has also been suggested. Subject to the imposition of these conditions, the development is considered to be acceptable in respect of highways safety.

Ecology

2.30 The proposals include ecological enhancements and mitigation such as the erection of bird and bat boxes, installing badger gates within the security fencing, gapping up and reinforcing existing hedgerow and planting new locally native hedgerows along the boundaries and creating chalk grassland wildflower meadows and a bee bank. An ecological impact assessment has been submitted with the application which examines the potential for ecological impacts and in accordance with the principle of the mitigation hierarchy, sets out avoidance measures and mechanisms for implementing and securing mitigation. Following consultation with the Senior Natural Environment Officer (SNEO), further ecology information has been provided which includes details of biodiversity net gain, landscape strategy and land and habitat enhancement plan.

2.31 Information has been provided in respect of biodiversity net gain (assessed using Defra metric 3.0) which identifies that the proposed development would result in an increase in habitat units of 59.6% and an increase in hedgerow units of approximately 138%. Regulation 19 draft Local Plan Policy NE1 seeks for

development to provide a minimum of 10% biodiversity net gain which the proposals would accord with.

2.32 The SNEO has reviewed the information submitted and is satisfied that the further information provided has addressed previous queries regarding the potential ecological impacts of the proposed development. To ensure the acceptability of the proposal, they recommend conditions are imposed requiring the submission of a biodiversity method statement (protection of biodiversity during construction), an ecological design and management plan, a bat sensitive lighting strategy and a biodiversity method statement in respect of the decommissioning of the development. Subject to the suggested conditions, and having had regard to the NPPF, The Conservation of Habitats and Species Regulations 2017 (as amended), The Wildlife and Countryside Act 1981 (as amended) and The Protection of Badgers Act 1992 (as amended), the development is considered acceptable in this respect.

Impact on Flood Risk

2.33 In support of the application, a flood risk assessment and drainage statement have been submitted which have been reviewed by consultees. The Environment Agency have raised no objection in principle to the development, although advise that non-planning consents may be required and have suggested an informative in relation to the sites' location over a principal aquifer and measures required to prevent any potential pollution to controlled waters.

2.34 KCC Flood and Water Management initially requested further information in respect of surface water drainage and following the submission of the drainage statement, had no objections to the proposals. They note that the surface water from the site will be managed via conveyance through grass/wildflower vegetation between the solar panels, the use of a shallow swale, filter drains, and a shallow infiltration basin. Conditions are suggested requiring the submission of a detailed sustainable surface water drainage scheme for the site based upon the drainage statement submitted before development is begun, the submission of a verification report relating to the surface water drainage system prior to the use of the development and that where infiltration is to be used to manage the surface water from the development, it will only be allowed within the parts of the site where information is submitted to demonstrate that there is no resultant unacceptable risk to controlled waters and/or ground stability. Subject to the imposition of these conditions and having had regard to the NPPF (particularly paragraph 174) and objectives of draft policy NE5 (noting the sites' location within source protection zones 2 and 3), the development is considered to be acceptable in this regard.

Loss of Agricultural Land and Greenfield Site

2.35 A report on the agricultural land classification and soil resources has been submitted as part of the application and identifies three main soil types across the site. Approximately 63% of the site is Grade 2 very good quality land, 30% is Grade 3a good quality and 7% of the site is Grade 3b moderate quality land. The report sets out that "Grade 1 land is excellent quality agricultural land with very minor or no limitations to agricultural use. Grade 2 is very good quality agricultural land, with minor limitations which affect crop yield, cultivations or harvesting. Grade 3 land has moderate limitations which affect the choice of crops, timing and type of cultivation, harvesting or the level of yield, and is subdivided into Subgrade 3a (good quality land) and Subgrade 3b (moderate quality land).

Grade 4 land is poor quality agricultural land with severe limitations which significantly restrict the range of crops and/or level of yields. Grade 5 is very poor quality land, with severe limitations which restrict use to permanent pasture or rough grazing".

2.36 Land which is classified as Grades 1, 2 and 3a is defined as best and most versatile (BMV) agricultural land. The Planning Statement submitted with the planning application sets out the approach taken to identify a location for the solar farm. This is constrained by the capacity of existing network connections (and viability of works that would be required for major upgrades to connect to the network). UK Power Networks (UKPN) advised there was sufficient capacity on the 33kV network to connect a solar farm, with substations located mainly in the north and west of the District at Betteshanger, Deal, Frogham, Knowlton, Marshborough and Richborough. There are only two substations in the south of the district at Dover Health Centre (located within the urban area) and Guston.

2.37 The Planning Statement considers that the land surrounding most of the 33kV substations in the north and west is either Grade 1 or Grade 2 agricultural land and whilst there are some pockets of Grade 3 agricultural land near Richborough and Deal, these are located within Floodzone 2 or 3. The site search area therefore focussed around the 33kV substations at Guston and Betteshanger. Marketing to identify landowners willing to consider a solar development took place, however no willing landowner near the Betteshanger substation was identified. The landowner of this site was identified and the application site and 'L shaped' field to the southeast were offered as they were considered to be the worst performing fields in terms of crop yield and choice of crop that can be grown. The planning statement further sets out that the adjacent field was potentially more sensitive given the topography and proximity to the A258 and AONB and the current site was therefore identified as the preferred option.

2.38 Planning Practice Guidance and National Policy Statement set out that "Where possible, ground mounted Solar PV projects should utilise previously developed land, brownfield land, contaminated land, industrial land or agricultural land preferably of classification 3b, 4 and 5 (avoiding the use of "Best and Most Versatile" cropland where possible). However, land type should not be a predominating factor in determining the suitability of the site location". Furthermore "Whilst the development of ground mounted solar arrays is not prohibited on sites of agricultural land classified 1, 2 and 3a, or designated for their natural beauty, or recognised for ecological or archaeological importance, the impacts of such are expected to be considered and are discussed under paragraphs 2.50 and 2.53. It is recognised that at this scale, it is likely that applicants' developments may use some agricultural land, however applicants should explain their choice of site, noting the preference for development to be on brownfield and non-agricultural land".

2.39 Whilst the site would be removed from arable production for a 40 year period, as set out in the planning statement, agriculture in the form of operational sheep grazing can take place at the site and as such, it would not be entirely removed from agricultural production. In addition, the argument is made in the planning statement that the removal of the land from intensive agricultural use for a period of time would give the land an opportunity to regenerate and could lead to an improvement in its quality over time, as well as the benefits for insects from the pollen and nectar source that would be provided by the chalk grassland meadow proposed. It is considered appropriate to suggest a condition is imposed requiring the removal of the solar PV panels and all associated development

(excluding the soft landscaping) at the end of the 40 year period should permission be granted.

Other Matters

Archaeology

2.40 A Geophysical Survey Report has been provided as part of the application (in line with Regulation 19 draft Local Plan Policy HE3) to assess the subsurface archaeological potential of the site. The results of the survey show a predominantly agricultural landscape comprising extensive drainage systems and contemporary ploughing trends. The survey results cannot rule out the presence of buried archaeological features. KCC County Archaeology have been consulted on the application and note that the site is located in an archaeologically sensitive area where there is good evidence in the form of crop and soil marks to demonstrate the presence of buried archaeological and landscape features in the development area and surrounding fields and there is the potential for Bronze age remains. They have reviewed the assessment submitted, which acknowledges the moderate to high potential for archaeological remains and that for the Bronze age, this could include remains of high significance. They consider that whilst the use of minimally intrusive piles for the installation of the panel frames will reduce the impacts, these can remain significant, particularly where piles coincide with funerary remains. Having had regard to NPPF Paragraph 194, they recommend that further survey (likely in the form of an intrusive field evaluation) be carried out prior to the determination of the application. When queried if this could be dealt with by way of condition, they advised that the correct approach would be to avoid or minimise harm to important archaeology, which is the approach proposed in the applicant's heritage assessment and is the approach set out in the NPPF and that it could be difficult to subsequently exclude part of the site from development to allow any archaeology that may be present to be preserved in situ.

2.41 Following KCC Archaeology's response, the agent has further advised that there are a number of measures which can be implemented to avoid impacts on below ground archaeological remains. They have advised that

> "the steel piles of a normal installation do little to disturb the ground and are normally sufficient to ensure archaeological impacts are avoided. Alternative measures are tripod piles (which normally enables the piles to be driven only 0.5 metres into the ground). Another alternative measure is to encase piles in a ballast block, ensuring no ground penetration at all. If a part of the site is particularly sensitive can be left open and undeveloped".

2.42 It is considered, given that there are options for securing the panels which do not require penetration of the ground, a pre-commencement condition could be imposed requiring that a program of archaeological work, including an intrusive field evaluation survey, be carried out and submitted for approval. Following this, a further pre-commencement condition could be attached requiring details of the design of the solar panel foundation piles, including any trenches for cabling and other excavation, to be used across the site. This would need to take into account the location, status and agreed archaeological response (e.g. whether the remains are to be recorded, removed for preservation or preserved in situ) to specific features identified. Whilst there is a potential, albeit limited, that part of the site could be incapable of accommodating panels due to a need to preserve important remains in situ, it is not considered that this precludes development

being granted subject to the aforementioned conditions. Such conditions would ensure that any archaeology on site is appropriately recorded and preserved.

2.43 Having had regard to Regulation 19 draft Local Plan Policy HE3, whilst noting that the field evaluation would be carried out following the determination of the application (contrary to the draft policy), the evaluation required by the condition would be required to define the character, significance and condition of any archaeological deposits or structures within the application site; the likely impact of the proposed development on the archaeology, its significance and setting (including the limits to the depth to which groundworks can go on the site); and the means of mitigating the effect of the proposed development including a statement setting out the impact of the development (as required by the draft policy). Subject to this, having had regard to NPPF Paragraph 194 and the rest of Chapter 16, it is considered that any archaeology present at the site can be preserved.

Glint and glare

2.44 A glint and glare study has been submitted in support of the proposals which considers the impact of the PV panels on roads, dwellings and train drivers. The report considers that due to significant screening from existing vegetation, there is no predicted impact on train drivers and no mitigation is required. For the same reasons, no impact is predicted on the A2 road. The A258 has been assessed and for three sections of the road, until vegetation has adequately matured (at which point no impact is predicted), solar reflections will occur albeit outside of a road user's field of view and in the short term, the impact upon these sections of road is low and no further mitigation requirement has been identified. In respect of the impact on dwellings, for most receptors, screening in the form of existing and proposed vegetation, terrain, dwellings and/or buildings will significantly obstruct the views of the reflecting panels (such that observers located at most dwellings will not experience solar reflections in practice). The review has identified that for two dwellings located near the site boundary marginal views may be possible in the short term.

Planning Balance

2.45 The principle of the development is considered to accord with Policy DM1 and with the exceptions of Policy DM11 in that the development functionally requires a rural location. As discussed in the principle of development section of this report, it is acknowledged that some of the key policies in the determination of the application are out of date and hold reduced weight and as such, the tilted balance approach set out in Paragraph 11 of the NPPF is engaged. In such circumstances, permission must be granted unless material considerations indicate otherwise.

2.46 Policy DM1 carries limited weight, however Policy DM11 carries greater weight as it is considered to be broadly in accordance with the sustainable development objectives of the NPPF. Whilst the proposals would result in the use of best and most versatile agricultural land for a 40 year period, the land could still be used for agricultural purposes and would otherwise accord with the objectives of draft policy CC3. The visual impact of the proposals on the character and appearance of the countryside, wider landscape area and setting of the nearby Kent Downs AONB, for the reasons set out above, is considered to be acceptable having had regard to Policies DM15 and DM16 and draft policy NE2. The impact on the significance of the setting of heritage assets has also been considered and whilst

the proposals are considered to result in lower level less than substantial harm, having had regard to chapter 16 of the NPPF and the Planning (Listed Buildings and Conservation Areas) Act 1990, this is considered to be outweighed by the public benefit of the renewable energy that would be generated and would feed into the national grid (sufficient to power 7,000 homes). The impact on residential amenity has also been considered and whilst the proposals would be visible from dwellings in the area, due to the siting and scale of the development, as well as the landscaping scheme proposed, the impact on residential amenity is considered to be acceptable having had regard to NPPF paragraph 130(f). The impact on other material considerations such as flooding and drainage, travel, ecology and archaeology have been considered and subject to the imposition of the suggested conditions, are considered to be acceptable.

2.47 Overall, whilst this is a balanced assessment, it is considered that the disbenefits of the scheme do not significantly and demonstrably outweigh the benefits, with material considerations indicating that permission should be granted subject to the relevant conditions.

3. Conclusion

3.1 As outlined above, the site lies outside the settlement confines, however the development is functionally required to be located in a rural area. The tilted balance approach set out at Paragraph 11 of the NPPF is considered to be engaged as the Policies most important for determining the application are out-of-date and in conflict to a greater or lesser extent with the NPPF. In light of this, and in taking into account other material considerations as discussed in the planning balance section of this report, it is considered that the benefits of the development outweigh the disbenefits and it is recommended that permission be granted.

g) Recommendation

I PERMISSION BE GRANTED subject to conditions:

1) Time limit

2) Plans

3) Solar panels shall be matt finish and non-reflective

4) Details of colour finish of fencing and other structures

5) Submission of a construction management plan prior to commencement of development (including details of how the operators of the site will advise construction and delivery vehicles of routing to/from site; parking and turning areas for construction and delivery vehicles and site personnel; timing of deliveries; provision of wheel washing facilities; temporary traffic management/signage; condition surveys)

6) Provision and maintenance of visibility splays prior to commencement of development with no obstructions over 1.05m above carriageway level within the splays

7) Use of a bound surface for the first 5m of the access from the edge of the highway

8) Plans demonstrating the detailed design of the proposed construction access to be submitted prior to the commencement of works

9) Landscaping (boundary treatments, planting plans – species, schedules, sizes & timescale + replacement of any dead/damaged planting for the lifetime of the development- 40 years)

10) Biodiversity method statement (protection of biodiversity during construction)

11) Ecological design and management plan

12) Bat sensitive lighting strategy

13) No further external lighting other than that approved as part of the bat sensitive lighting strategy

14) Submission of a programme of archaeological work including an intrusive field evaluation survey prior to the commencement of development

15) Submission of details of the design of the solar panel foundation piles and all other excavations, together with details of alternative measures to secure solar panels, cabling and other infrastructure, to be used across the site. These details shall have regard to the results of the intrusive field evaluation survey, prior to the commencement of development.

16) Submission of a detailed sustainable surface water drainage scheme based upon submitted Drainage Statement prior to the development being begun

17) Submission of a verification report pertaining to surface water drainage system prior to first use

18) Restricting infiltration to manage surface water to the parts of the site where information is submitted to demonstrate there is no resultant unacceptable risk to controlled waters and/or ground stability

19) Arrays and all associated structures other than soft landscaping to be removed after 40 years

20) Submission of decommissioning plan prior to removal of structures

21) Biodiversity method statement – decommissioning

II Powers to be delegated to the Head of Planning and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by the Planning Committee.

Case Officer

Rachel Morgan